ARTICLE 11 RUBBISH, JUNK, WEEDS AND BRUSH, AND UNSAFE STRUCTURES

DIVISION 1 GENERAL

Section 11.100 General

- A. **Purpose**. The purpose of this Article is to protect the health, safety, and welfare of the citizens of Costilla County through the removal of rubbish, junk, weeds and brush, and unsafe structures from land in the unincorporated areas of the County. This includes removal by the County upon failure of the property owner to comply with a notice to remove rubbish, junk, weeds and brush, or unsafe structures and the provision for criminal penalties in the event of failure to comply.
- B. **Authority**. Section 30-15-401 C.R.S, as amended, authorizes the Board of County Commissioners to adopt regulations for the control of matters of local concern, including providing for and compelling the removal of rubbish, junk, weeds and brush, and unsafe structures from land in the unincorporated areas of the County.
- C. **Removal of Rubbish, Junk, Weeds and Brush, or Unsafe Structures**. It shall be the duty of any person who is the owner, lessee or occupant of a lot, tract or parcel of land in Costilla County to remove rubbish, junk, weeds and brush, and unsafe structures from that land.
 - 1. **Removal of Rubbish.** Rubbish, as defined in Section 2.100 of this Code, shall be removed from lots, tracts and parcels of land within the County, except industrial tracts of ten or more acres and agricultural land currently in agricultural use in compliance with this Code.
 - 2. **Junk.** Junk, as defined in Section 2.100 of this Code, shall be removed from all lots, tracts and parcels of land within the County.
 - 3. **Weeds and Brush**. Weeds and brush, as defined in Section 2.100 of this Code, shall be removed from residential lots and from alleys behind and sidewalk areas in front of such lots.
 - 4. **Unsafe Structures**. Any unsafe building or structure as defined in Section 2.100 of this Code, and as further defined in this Article, shall be removed from lots, tracts and parcels of land within the County with the exception of any building or structure on:
 - a. Affected land subject to the Colorado Mined Land Reclamation Act as defined in Section 34-32-103(1.5), C.R.S, as amended.
 - b. Lands subject to the Colorado Surface Coal Mining Reclamation Act pursuant to Article 33 of Title 34, C.R.S, as amended.

Section 11.110 Process for Removal of Rubbish, Junk, Weeds and Brush, or Unsafe Structures.

Unless otherwise specified, the following process for compliant and verification of violation shall apply instead of the enforcement process set forth in Article 12 of this Code.

A. Complaint and Verification of Violation.

- 1. **Verify Violation**. Upon complaint made or filed by a member of the public or by a County official or employee, the Administrator will verify the complaint as a violation.
 - 2. <u>Authority to Enter and Inspect</u>. The Administrator's authority to enter and inspect land, a building or structure for the purpose of verifying a violation shall be governed by the same procedures for obtaining consent or an administrative search warrant as are set forth in Section 12.120.

B. Notification of Violation and Provision for Appeal of Violation.

- 1. **Notice of Violation**. If the Administrator verifies a complaint as a violation, the Administrator will provide written notice of the violation and the requirements for abatement to the property owner of record as identified on the Costilla County tax records (both to the address in the tax records and the property address, if different), and to any other responsible party whose identity and whereabouts are known to the Administrator. The notification will include a description of the violation, the requirements for abatement including the time period in which abatement must occur, a proposed re-inspection date to verify abatement, a statement of the right to appeal the determination of violation, and the time within which a written appeal must be filed. Ordinarily the Administrator will provide thirty (30) days for abatement, unless the Administrator determines that a shorter or longer time is justified.
- 2. **Appeal**. The property owner or other noticed person may appeal the Administrator's determination that a violation exists to the Board of County Commissioners. The request for an appeal must be made to the Administrator in writing within the time period for abatement specified in the Notice of Violation.
- 3. **Public Notice and Hearing by Board of County Commissioners**. If a timely appeal is filed, the Administrator will schedule a hearing by the Board, and publish notice of the hearing no less than (14) days prior to the date of the hearing.
- 4. **Notifications.** No less than fourteen (14) days prior to the date of the hearing, the Administrator will provide notice of the hearing to the party requesting the appeal, adjacent property owners and any other known interested persons.

5. **Hearing and Action by Board of County Commissioners**. At the appeal hearing, the Board will take testimony from the Administrator, the alleged violator, and any members of the public present. Upon completion of the hearing, the Board may affirm, reverse, or modify the determination of violation by the Administrator.

C. Board of County Commissioners' Authorization for Abatement by County.

- 1. **Authorization for Abatement by County**. If the alleged violator fails to comply with the County's requirements for abatement, the Administrator may request that the Board, at a public meeting, authorize the County to arrange for abatement of the violation.
- 2. **Notification**. No less than fourteen (14) days prior to the date of the meeting, the Administrator will provide notice of the meeting to the alleged violator.

D. Administrative Entry and Seizure Warrant for County Abatement.

- 1. **Administrative Entry and Seizure Warrant**. Upon authorization by the Board for County abatement of the violation, the administrator shall seek an administrative entry and seizure warrant from the County or District Court having jurisdiction over the property.
- 2. **Requirements to Issue Warrant**. Such warrant shall be issued upon presentation of these regulations, an affidavit stating the factual basis for the warrant, evidence that the property owner has received notice of the violation and has failed to abate the violation within the prescribed time, a general description of the location of the subject property, a general description of the violation, and the proposed method and extent of abatement by the County, including a general list or description of the rubbish, weeds or brush, or unsafe structure to be removed.

E. County Abatement.

- 1. Within ten (10) days following the date of issuance of an administrative warrant the County shall abate the violation in accordance with the direction of the court. A copy of the issued warrant shall be provided to the property owner. Proof of the execution of the warrant, including a written inventory of any property impounded by the County, shall be submitted to the court.
- 2. The proposed method of abatement by the County may be accomplished through the use of County staff or by contract with a private party, and may include the impoundment of rubbish or other property removed as part of the abatement.

- 3. A bill for the reasonable costs of abatement plus an inspection fee of five (5) percent of that cost shall be mailed to the property owner of record at the address specified above. Payment of the bill shall be due within sixty (60) days of the date of the bill.
- 4. If the bill is unpaid after sixty (60) days, the Administrator through the County Clerk shall certify the bill to the County Treasurer, who shall collect the assessment together with a ten (10) percent penalty for the cost of collection, in the same manner as other taxes are collected.

Section 11.120 Penalties and Preservation of Remedies

A. Criminal Penalty for Violation.

- 1. Any person who violates the provisions of this Article commits a Class 2 petty offense. Upon conviction, a Class 2 petty offense may be punished by a fine of not more than \$300 for each separate violation.
- 2. If the Administrator determines that the alleged violator has failed to abate the violation as required by the County, the Administrator in addition to pursuing any other remedy authorized by law may request that the County Sheriff arrest the alleged violator pursuant to Section 16-2-201, C.R.S, as amended.
- 3. Under Section 16-2-201, C.R.S., as amended, upon arrest for a violation of this Article the arresting officer may either issue a penalty assessment notice and release the person upon its terms, or take the person before a judge of the County court.
- 4. The fine for each separate violation of this Article shall be the maximum of \$300 per separate violation. Each day a violation continues after the time for abatement has run, or after the deadline the Board specifies for abatement at an appeal hearing, shall be considered a separate violation.
- 5. All fines collected pursuant to this Article shall be paid into the County treasury as soon as they are collected.
- B. **Preservation of Remedies**. The remedies as provided in this Article, and as may be available under other applicable regulations of the County or pursuant to state or federal law, are not exclusive in any way, and may be pursued by the County singularly or in combination to achieve the most expeditious abatement of violations involving the presence of rubbish, weeds and brush, and unsafe structures.